

## REMARKS

The last Office Action dated 02/05/2007 has been carefully considered. In addition a telephonic interview was held with examiner on 13 March 2007 wherein agreement was reached on several salient points and is considered in this office action response as well.

### **Amendments to the Drawings**

Drawing Figures 1 through 4 have been resubmitted beginning in page 12 of this paper and include both an attached replacement sheet and an annotated sheet showing changes.

### **Remarks/Arguments**

#### **Claim rejections – 35 USC 112**

It was noted that **Claims 26, 34 and 42** are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is believed that the above amendments to the claims are fully responsive to the Examiner's rejection and put these claims in condition for allowance.

In claim 26, line 2, has been amended to remove the phrase "fail safe" therefore should now be in condition for allowance.

In claim 34, line 5, has been amended to replace "the data format" to introduce the concept of computer dissemination with "a data format". The element of "a data format" is well supported by the specification. This is best exemplified in Stage 2 and Stage 3 of the deployment of the kit, see paragraphs 25 and 26. It is also re-enforced in the discussion of features of the device which require the data be formatted such that the electronic information is flexible, transportable, and updateable, see paragraphs 30,31,32. Therefore applicant believes that the element is well supported in the specification, and that the editorial change as noted puts this claim in condition for allowance.

In claim 42, last paragraph, the language "a previously supplied decryption" has been amended to read; "utilizing a decryption key previously supplied to an authority". This is a matter discussed in the examiner interview, and supported starting with the abstract and re-enforced throughout the specification including Figures 3 and 4.

Paragraph 58 states, step 4; “providing said medium and a decryption key to an investigative authority for disbursement of portions of said indicia should the person go missing. Perhaps the abstract, which is not part of the specification, states it best; “medium to store identifying indicia of the person, portions of which are encrypted to protect sensitive information and make it more accessible only to authorities having been given a decryption key in advance”. Therefore applicant feels that the claim as amended is quite definite and has clear basis for support, and applicant hereby requests that the examiner accept this claim as being in condition for allowance.

### **Claim rejections – 35 USC 102**

It was noted that **Claim 32** was rejected as being anticipated by Basile et al cited by applicants. This rejection was discussed at length during the examiner’s interview.

Applicant holds that prior art teaching including Basile et al lacks teaching for, and even teaches away from identification and instead involves verification. Col 2 line 5-6 teaches that the “tag...can be worn by the child”; col 2 lines 47-51 further teaches that; “another object of the invention to provide a child identification system which includes both an identification device that is carried, and an identification tag that is worn by the child”. In order to be useful, the Basile et al invention requires that a child in an emergency situation be identified by people reaction to the situation, then the card or tag is used to verify identity, then use the invention to supply pertinent medical information about the child, see Basile et al col 1 lines 14-21.

In addition Basile et al cannot be fully enabled without element 14, a central ‘relational database for receiving and storing information for each child participating in the program” col. 3 lines 22-25.

The current invention teaches and claims that the nature of the data requires that it not be “held or entered into a central storage or database” Lane et al par. 0017.

Applicant believes that Claim 32, as currently amended, is patently distinct from and not anticipated by Basile et al in that Basile teaches verification, while applicant teaches identification, and that Basile et al is non-enabled without a centralized database, while applicant claims independence from a centralized database. Therefore, applicant respectfully requests that examiner allow the currently amended claim 32.

### **Claim rejections – 35 USC 103**

It is noted that **Claims 22-44** are rejected under 35 U.S.C. § 103 as being unpatentable over Basile et al (U.S. Pat. No. 6042005) in view of Rothschild et al (U.S. Pat. Pub. No. 2003/0097351).

Applicant believes that both Basile and Rothschild teaches away from the invention of the present application, by focusing on verification, which is the matching of data and indicia that the holder of the card is truly the one it identifies. This endeavor requires the holder of the card to be present. The present application is the identification of an individual gone missing with a number of other individuals searching.

Applicant also believes that both Basile and Rothschild teaches away from the simplicity of the present invention. Both require the presence of a complex central data base or data storage facility for enablement. The present invention is designed as a kit which is held separate from other means such that a central data base is not needed, nor desired, where sensitive information used to find the missing individual are concerned. Yet when needed, the contents of the kit are readily available through standard electronic interfaces.

Applicant also believes that the active step of purging data from the system between enrollments adds the assurance to the parent or guardian that sensitive data regarding the individual, child or loved one, is purged from the system and cannot be used or exploited by others for personal gain.

Applicant also believes that, while the examiner asserts that encryption and decryption are evidenced in the prior art, which is not disputed by applicant. The prior art fails to define the system for encrypting and decrypting as found in the present application. The present application teachings are based on a distributed database model with a centralized key. The holder of the encrypted data are the millions of owners of the kit since no data is held in a central database. However, the decryption key is centrally held by a separate entity. This requires a would-be hacker to have access to the millions of homes or storage places where the kits are held to extract sensitive information. Yet having a centralized holding place for the decryption, allows for quick rendering of the information when needed.

Thus, applicant believes that prior art teaches away from the simplicity of the present invention, which provides a solution to the problem of potential third party hacking attacks. *See In re Baird*, 16 F.3d 380, 29 USPQ2d 1550 (Fed. Cir. 1994) (prior art reference “appears to teach away from the selection of” the claimed composition “by focusing on more complex examples”). The fact that a simple solution has escaped other workers in the art is some evidence that it was **not obvious** to a person of ordinary skill in the art. *See In re Shelby*, 311 F.2d 807, 810, 136 USPQ 220 (CCPA 1963):

Appellant’s claimed invention departs from the prior art in the direction of simplicity rather than in the direction of complexity. . . . The simplicity of this useful invention is, in retrospect, some evidence that it was not obvious to a person of ordinary skill in the art . . . . *In re Osplack*, 39 CCPA 932, 195 F.2d 921, 93 USPQ 306. . . . While it is admittedly simple, it has escaped the other workers in this crowded art. We do not think the simplicity of appellant’s construction should deprive him of his right to a patent thereon. Expanded Metal Co. v. Bradford, 214 U.S. 366.

It is respectfully submitted that the currently amended **claims 22, 26, 28, 29, 31, 32, 33, 34, 35, 38, 41, 42** clearly and patentably distinguish over the prior art, since it is believed that the construction defined in these claims differs essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references. Applicant believes that combining the references discussed above would not lead to the claimed invention, in that the present invention does not merely employ the known substitution of equivalents but rather employs a new, non-obvious combination to accomplish the objectives set out in the present application.

As for the proposed combination of references cited by the examiner, it is respectfully submitted that since none of the references in the combination teaches the distinctive features of applicant’s invention as defined now in the amended claims, any hypothetical construction produced by this combination would not lead to applicant’s invention.

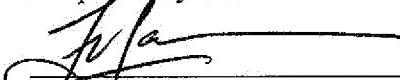
It is respectfully submitted that the combined teachings of the references applied by

the Examiner fail to disclose or even suggest the subject matter of the claims at issue. That a prior art reference could be modified to form the claimed structure does not supply a suggestion to do so. "The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 871 F.2d 115, 10 USPQ2d 1397 (Fed. Cir. 1989).

In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the amended claims and should be withdrawn. The dependent when read in light of the amended claims should be considered as patentably distinguishing over the art and should be allowed.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned. No new matter was added.

Respectfully submitted:



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